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NOTICE OF ALLOWANCE AND FEE(S) DUE

23557 7590 05/04/2010

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO Box 142950
GAINESVILLE, FL 32614

EXAMINER

KAM, CHIH MIN

ART UNIT

PAPER NUMBER

1656

DATE MAILED: 05/04/2010

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,664	01/26/2004	Leonard S. Girsh	GIR-105/CXC1	9812

TITLE OF INVENTION: COMPOSITION WITH ANTI-INFLAMMATORY, PROTEIN SYNTHESIZING, ENZYME DEFICIENCY ACTIVATING
GENETIC THERAPY AND ANTI-CANCER ACTIVITY AND METHODS OF USE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$755	\$0	\$0	\$755	08/04/2010

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE** OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** **Mail Stop ISSUE FEE**
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P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax **(571)-273-2885**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

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Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10765.664 01/26/2004 Leonard S. Girsh GIR-105/CXI 9812

TITLE OF INVENTION: COMPOSITION WITH ANTI-INFLAMMATORY, PROTEIN SYNTHESIZING, ENZYME DEFICIENCY ACTIVATING GENETIC THERAPY AND ANTI-CANCER ACTIVITY AND METHODS OF USE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$755	\$0	\$0	\$755	08/04/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
KAM, CHH MIN	1656	514-008000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number** is required.

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
 (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____
 Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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01/26/2004

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Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 798 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 798 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability**Application No.**

10/765,664

Examiner

CHIH-MIN KAM

Applicant(s)

GIRSH, LEONARD S.

Art Unit

1656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/14/10.
2. ☒ The allowed claim(s) is/are 1-21.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413)
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Chih-Min Kam/
Primary Examiner, Art Unit 1656

DETAILED ACTION

Status of the Claims

1. Claims 1-21 and 24 are pending.

Applicants' amendment filed April 14, 2010 is acknowledged. Applicants' response has been fully considered. Claims 1 and 15 have been amended, claims 22-23 have been cancelled, and new claim 24 have been added. Therefore, claims 1-21 and 24 are examined.

Withdrawn Claim Rejections - 35 USC § 112

2. The previous rejection of claims 1-23 under 35 U.S.C. 112, first paragraph, written description, is withdrawn in view of applicants' amendment to the claims, applicants' cancellation of the claims, and applicants' response at pages 6-7 in the amendment filed April 14, 2010, as well as Examiner's Amendment (see below).

Examiner's Amendment

An **Examiner's Amendment** to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Frank C. Eisenschen on April 28, 2010.

Examiner's Amendments to the Specification:

Please replace the paragraph after subtitle "Cross-Reference to Related Applications" at page 1 of the specification in the preliminary amendment filed August 8, 2004 with the following paragraph:

This application is a Continuation-in-Part of application 10/752,298, filed January 5, 2004, now abandoned, which claims the benefit of 60/437,939, filed January 3, 2003. This application also claims the benefit of applications 60/442,278, filed January 24, 2003; 60/447,779, filed February 13, 2003; 60/448,003, filed February 18, 2003; and 60/448,497, filed February 19, 2003. This application is also a Continuation-in-Part of application 09/639,859, filed August 16, 2000, now U.S. Patent 6,974,796, which claims the benefit of application 60/149,338, filed August 17, 1999. These applications are all hereby incorporated by reference in their entireties, including all figures, formulae, references and tables.

Examiner's Amendment to the Claims:

Cancel claim 24.

Claims 1, 2, 12 and 15 have been amended as follows:

1. (Currently amended) An anabolic composition comprising:
 - a) cartilage, chondroitin sulfate, hyaluronic acid, or collagen in an amount effective in damaged tissue to act as an anti-inflammatory and anti-neo-angiogenic agent;
 - b) at least one polar surface active lipid selected from the group consisting of phosphatidic acid, phosphatidylethanolamine, lecithin, ~~phosphatidylcholine~~ phosphatidylcholine, phosphatidylserine, phosphatidylinositol, 2-lysolecithin, plasmalogen, choline plasmalogen, phosphatidylglycerol, diphosphatidylglycerol, sphingomyelin, and any combination of 2, 3, 4, 5, 6, 7, 8, 9, 10, or 11 of said polar active surface lipids;
 - c) a plurality of enantiomerically pure L-amino acids and glycine in molar ratios characteristic of human breast milk protein;
 - d) taurine or L-carnitine or both taurine and L-carnitine;
 - e) a component selected from the group consisting of polyoxyethylene sorbitan monooleate, sorbitan monooleate, grape seed extract, grape extract, and combinations thereof; and
 - f) vitamins, minerals or trace elements selected from the group consisting of Vitamin B12, Vitamin E, selenium, zinc, and combinations thereof.

2. (Currently amended) The composition according to claim 1, further comprising a compound generally ~~accepted~~ recognized as safe (GRAS), said compound being garlic.

12. (Currently amended) The composition according to claim 1, wherein said composition further comprises a compound generally ~~accepted~~ recognized as safe (GRAS).

15. (Currently amended) An anabolic composition comprising:

a) cartilage, chondroitin sulfate, hyaluronic acid, or collagen in an amount effective in damaged tissue to act as an anti-inflammatory and anti-neo-angiogenic agent;

b) at least one polar surface active lipid selected from the group consisting of phosphatidylcholine, phosphatidic acid, phosphatidylethanolamine, lecithin, phosphatidylserine, phosphatidylinositol, 2-lysocleithin, plasmalogen, choline plasmalogen, phosphatidylglycerol, diphosphatidylglycerol, sphingomyelin, and any combination of 2, 3, 4, 5, 6, 7, 8, 9, 10, or 11 of said polar active surface lipids;

c) a plurality of enantiomerically pure L-amino acids and glycine in molar ratios characteristic of human breast milk protein;

d) taurine or L-carnitine or both taurine and L-carnitine;

e) a component selected from the group consisting of polyoxyethylene sorbitan monooleate, sorbitan monooleate, grape seed extract, grape extract, and combinations thereof, and

f) vitamins, minerals or trace elements selected from the group consisting of Vitamin B12, Vitamin E, Vitamin A, alpha-tocopherol, selenium, zinc, and combinations thereof.

The following is an Examiner's Statement of Reasons for Allowance: The following reference is related to the claimed invention. Girsh (U.S. Patent 6,974,796 B1) discloses an anabolic medicament for treating a damaged tissue, the medicament comprising: a) at least one extracellular matrix compound in an amount effective in the damaged tissue as anti-inflammatory and anti-neo-angiogenic agent, wherein said extracellular matrix compound is selected from the group consisting of a glycosaminoglycan, a collagen, cartilage, chondroitin sulfate, a glycoprotein, and a proteoglycan; b) at least one polar surface active lipid, wherein said polar surface active lipid is selected from the group consisting of a phospholipid, a glycolipid and a lipoprotein; and c) a plurality of amino acids having an alpha carbon, the amino acids being present at a molar ratio which is characteristic of human breast milk protein, and wherein no more than 10% of the amino acids are in D-form. An obviousness-type double patent rejection was made over the patent in the instant application. A terminal disclaimer over

Art Unit: 1656

the patent was filed and the obviousness-type double patent rejection is withdrawn. Therefore, the claims are allowable over the art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chih-Min Kam whose telephone number is (571) 272-0948. The examiner can normally be reached on 8.00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Manjunath Rao can be reached at 571-272-0939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Chih-Min Kam/

Primary Examiner, Art Unit 1656

CMK

April 28, 2010